

Remarks

Claims 1-3, 5-15, and 17-23 are pending for the Examiner's consideration. Claims 1 and 14 have been amended; in particular, amended independent claim 1 now incorporates limitations of previously pending claim 4 and amended independent claim 14 now incorporates limitations of previously pending claim 16. Claims 4 and 16 thus have been canceled. New claims 22 and 23 have been presented. No new matter is believed to have been added by the amendments presented herein.

The Office Action includes a rejection citing to U.S. Patent No. 5,782,076 to Huber *et al.* ("Huber"). However, the Examiner did not list Huber on the Form PTO-892 "Notice of References Cited." Because this patent was cited by the Examiner, Applicants respectfully request that the Examiner list Huber on a new Form PTO-892.

The Office Action also states in paragraph 10 (page 6) that "[t]he cited patent to Bangert is the issued US patent of publication US 2001/0022933 A1." However, the Office Action cites to WO 00/11324 which is a published PCT application – not an issued U.S. patent. Clarification by the Examiner respectfully is requested.

Claims 1, 9, 11, 12, 14, 15, and 19 were rejected in the Office Action under 35 U.S.C. § 102(b) as being anticipated by WO 00/11324 to Bangert *et al.* ("Bangert"). The rejection respectfully is overcome.

Bangert is directed to a turbine housing. As understood, Bangert discloses a turbine casing 1 with an inner casing 3 and an outer casing 4 which surrounds the inner casing 3. The casings 3, 4 are at a distance from one another such that an intermediate space 5 is formed. Outer casing 4 has two diametrically opposite openings 9, 10 which are in connection with one another by use of a circulating fan 12 provided within a ducting system 11. A directed flow S of a medium is generated and forced in the intermediate space 5. In the circuit shown in the figure, the suction-side opening forms an outlet-flow opening for the medium whereas the pressure-side opening forms an inlet-flow opening.

In contrast, amended independent claim 1 is directed to a turbomachine comprising, *inter alia*, at least one ejector. Amended independent claim 14 is directed to a method for operating a turbomachine comprising, *inter alia*, forcing a flow through the cavity at standstill of the turbomachine by a motive fluid emerging from at least one ejector. Thus,

Bangert fails to anticipate independent claim 1 or its dependent claims 9, 11, and 12 and similarly fails to anticipate independent claim 14 or its dependent claims 15 and 19.

Claims 1-4, 6, 8, 9, 11, 14-16, and 18-21 were rejected in the Office Action under 35 U.S.C. § 103(a) as being unpatentable over Bangert in view of U.S. Patent No. 4,351,150 to Schulze ("Schulze"). The rejection respectfully is traversed.

As described above, Bangert is directed to a turbine housing. Schulze is directed to an auxiliary air system for a gas turbine engine.

The Office Action states that "Bangert discloses the invention substantially as claimed except for the use of an ejector." But, the Office Action states that "Schulze discloses the use of ejectors in turbomachine cooling systems." The Office Action then states that "[i]t would have been obvious at the time the invention was made to modify the cooling device of Bangert by replacing the inlet hole with an ejector, as taught by Schulze, in order to better control the induced flow direction." And the Office Action further states that "the method of operating a turbomachine would have been apparent from the cooling device."

The Office Action fails to identify any suggestion to combine Bangert and Schulze to arrive at the claimed inventions. "[I]t is impermissible to use the claims as a frame and the prior art references as a mosaic to piece together a facsimile of the claimed invention." *Unroyal, Inc. v. Rudkin-Wiley Corp.*, 837 F.2d 1044, 1051 (Fed. Cir. 1988) (citations omitted). "When prior art references require selective combination . . . to render obvious a subsequent invention, there must be some reason for the combination other than the hindsight gleaned from the invention itself. Something in the prior art as a whole must suggest the desirability, and thus the obviousness, of making the combination." *Id.* (citations omitted).

FIG. 1 of Schulze shows a gas turbine engine in the form of a turbofan. Schulze states that with the utilization of electronic engine controls to supplement, and in some cases replace, hydromechanical engine controls for providing improved safety and higher efficiency of operation, a greater degree of cooling is required to maintain the electronic control module. (Schulze, Col. 1, lines 13-21). As disclosed in Schulze, a pipe 10 conveys cooling air to an electronics module 14, located in annular airspace 7, and preferably is connected to heat transfer means comprising part of a component. (*Id.*, Col. 4, lines 10-13). When electronic components 15 within module 14 become warm during operation, the heat is conductively transferred to a base plate 16, which in turn conducts heat to air entering a chamber 17 through an aperture 18 from pipe 10. (*Id.*, Col. 4, lines 15-24). Air exits

chamber 17 through an aperture 20 into a pipe 21 and the air continues to flow through pipe 21 to an air flow device, such as an air flow inducer 22. (*Id.*, Col. 4, lines 27-29).

The technologies shown and described in Bangert and Schulze simply are not amenable to combination. For example, Bangert concerns preventing a distortion in the outer casing during cooling of the turbine while Schulze instead concerns cooling electronic engine controls located within a nacelle. Applicants submit that there is no teaching or suggestion in either Bangert or Schulze that would lead one of ordinary skill in the art to combine these references. *See, e.g., Interconnect Planning Corp. v. Fell*, 774 F.2d 1132, 1143 (Fed. Cir. 1985).

Claim 5 was rejected in the Office Action under 35 U.S.C. § 103(a) as being unpatentable over Bangert in view of Schulze and further in view of legal precedent. The Office Action states that “[s]ince the specification is silent as to any additional benefit of multiple ejectors arranged as claimed, it would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize two ejectors in the manner as claimed as an obvious duplication of parts in order to enhance the tangential flow of the motive fluid.” Applicants respectfully traverse the rejection.

Applicants submit that claim 5 is directed to an invention that does not involve mere duplication of parts. As the specification states, “it is advantageous with regard to the intensity of the flow excitation if two or more ejectors oriented in the same blowout direction are arranged equidistantly at the circumference of the cavity.” (Specification, page 4, lines 4-6). As understood, the Office Action appears to rely on impermissible hindsight in rejecting claim 5.

Claim 7 was rejected in the Office Action under 35 U.S.C. § 103(a) as being unpatentable over Bangert in view of Schulze and further in view of DE 507 129. In addition, claims 10, 13, and 17 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Bangert in view of Schulze and further in view of U.S. Patent No. 5,782,076 to Huber *et al.* It is submitted that dependent claims 7, 10, 13, and 17 at least are patentable not only because of the patentability of the independent claim from which they depend, but also for the totality of features recited respectively therein.

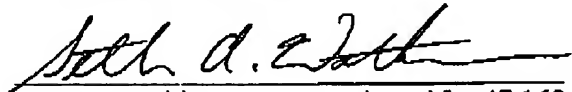
In view of the foregoing, it is believed that all the pending claims are in condition for allowance, which is respectfully requested. If the Examiner does not agree,

then a personal or telephonic interview is respectfully requested to discuss any remaining issues so as to expedite the eventual allowance of the claims.

A Petition for Extension of Time is submitted concurrently herewith along with a Fee Transmittal Sheet for the presentation of two new independent claims. Should any additional fees be required, please charge any such fees to Steptoe & Johnson LLP Deposit Account No. 19-4293.

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Respectfully Submitted,



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Enclosures